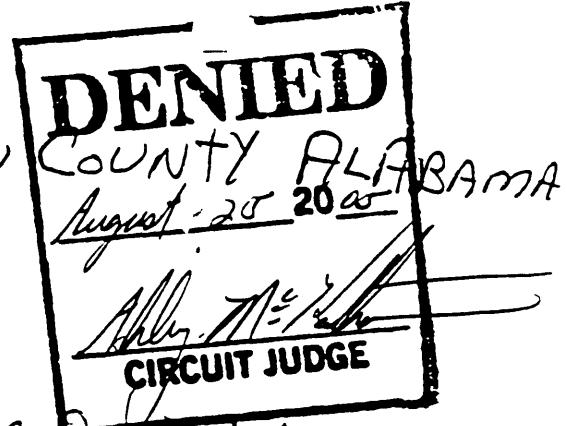


IN THE CIRCUIT COURT OF Covington
EX PARTE
LARYIE EARL JONES,
DEFENDANT,
v.
STATE OF ALABAMA,
Plaintiff.



CASE No: CC-2003-187-418-419

2004-347

MOTION FOR CHANGE OF PLACE OF TRIAL OR
DISMISS THE INDICTMENT
COME NOW THE DEFENDANT LARYIE EARL JONES, PRO, SE,
MOVE THIS HONORABLE COURT FOR CHANGE OF PLACE OF
TRIAL, AND AS THEREFORE STATES THE FOLLOWING
GROUNDS:

1. ON OR ABOUT SEPTEMBER 17, 2002, THE DEFENDANT WERE ARRESTED
AND CHARGE WITH POSSESSION OF DRUG PARAPHERNALIA A CLASS
(A) MISDEMEANOR, AND BECAUSE OF RESIDUE IN THE PARAPHERNALIA
HE WAS CHARGE WITH A POSSESSION OF CONTROLLED SUBSTANCE
IN CASE NUMBER CC-2003-187.

FILED IN OFFICE

AUG 15 2005

2. ON OR ABOUT MAY 14, 2003, THE DEFENDANT WERE ARRESTED
AND CHARGE WITH POSSESSION OF DRUG PARAPHERNALIA A CLASS
(A) MISDEMEANOR, AND BECAUSE OF RESIDUE IN THE PARAPHERNALIA
HE WAS CHARGE WITH A POSSESSION OF CONTROLLED SUBSTANCE
IN CASE NUMBER CC-2003-418.

C

ON OR About JUNE 11, 2003, THE DEFENDANT WERE ARRESTED AND CHARGE WITH POSSESSION OF DRUG PARAPHERNALIA A CLASS (A) MISDEMEANOR, AND BECAUSE OF RESIDUE IN THE PARAPHERNALIA HE HAS CHARGE WITH A POSSESSION OF CONTROLLED SUBSTANCE, IN CASE NUMBER CC-2003-419.

ON OR About JULY 14, 2004, THE DEFENDANT WERE ARRESTED AND CHARGE WITH POSSESSION OF DRUG PARAPHERNALIA A CLASS (A) MISDEMEANOR, AND BECAUSE OF RESIDUE IN THE PARAPHERNALIA HE HAS CHARGE WITH A POSSESSION OF CONTROLLED SUBSTANCE, IN CASE NUMBER CC-2004-347.

IN CASES NUMBERS CC-2003-187-418-419, THE DEFENDANT HAS SERVED 20 MONTHS, IN CASE NUMBER CC-2004, THE DEFENDANT HAS SERVED 13 MONTHS WITH AN EXCESSIVE \$200,000 BAIL, AND NO BAIL IN CASES CC-2003-187-418-419.

AUG 15 2005
FILED IN OFFICE

THE DEFENDANT REQUEST FOR CHANGE OF PLACE OF TRIAL TO ANOTHER COUNTY FREE FROM PREJUDICE. THIS COURT HAS SHOWN THAT AN UNFAIR AND IMPARTIAL TRIAL AND AN UNBIASED VERDICT CANNOT BE REASONABLY EXPECTED IN THIS COUNTY IN WHICH THE DEFENDANT IS TO BE TRIED, BECAUSE IN CASE CC-2003-187 THERE IS 36 MONTHS DELAY PREJUDICE THE DEFENDANT, IN CASE CC-2003-418 THERE IS 24 MONTHS DELAY PREJUDICE THE DEFENDANT, IN CASE CC-2003-419 THERE IS 3 MONTHS DELAY PREJUDICE THE DEFENDANT IN CASE CC-2004-347 THERE IS 13 MONTHS PREJUDICE THE

DEFENDANT, WHICH VIOLATED THE DEFENDANT CONSTITUTION
RIGHT TO DUE PROCESS OF LAW. NORRIS V. FRAME, CA-PA.
1978, 585 F.2d 1183.

1. DUE PROCESS REQUIRES THAT PRETRIAL DETAINEE NOT BE
PUNISHED. SCHALL V. MARTIN, N.Y. 1984, 104 S.Ct. 2403, 46
U.S. 253, 81 L.Ed.2d 207.

2. NO PRETRIAL DETAINEE SHOULD BE HELD IN THE SAME CELL OR
IN BLOCK OF COUNTY JAIL WITH ANY PERSON WHO HAS BEEN
CONVICTED OF A CRIME AND SENTENCED. ALBERTI V. SHERIFF
OF HARRIS COUNTY, TEXAS, D.C. TEX. 1975, 406 F.Supp. 649.

3. III. S.H.A. CH. 110A. 37-604(A)(3), PROVIDING THAT A DEFENDANT
SHALL NOT BE HELD IN JAIL OR TO BAIL DURING THE PENDENCY
OF AN APPEAL BY THE STATE, OR OF A PETITION OR APPEAL
BY THE STATE UNLESS THERE ARE COMPELLING REASONS FOR
THEIR CONTINUED DETENTION OR BEING HELD TO BAIL. U.S. EX
EL. FITZGERALD V. JORDAN, C.A. III. 1984, 747 F.2d 1025, FILED 10/25/84
INDEXED

4. STATE LACKS THE AUTHORITY TO SUBJECT PRETRIAL DETAINEE
TO THE SAME PUNISHING CIRCUMSTANCES AS CONVICTED PERSON;
THE POSITION OF PUNISHMENT WITHOUT CONVICTION DEPRIVES
THE ACCUSED OF DUE PROCESS. ALBERTI V. SHERIFF OF HARRIS
COUNTY, TEXAS, D.C. TEX. 1975, 406 F. SUPP. 649.

AUG 15 2005

EXHIBIT C

1. THIS CLAUSE PROTECTS PRETRIAL DETAINES FROM ABUSIVE TREATMENT, AND DECISIONS APPLYING CRUEL AND UNUSUAL PUNISHMENT CLAUSE SERVE AS USEFUL ANALOGIES. *Patzig v. O'Neil* C.A.Pa. 1978, 577 F.2d 841.

2. AN INDIVIDUAL'S CONSTITUTIONAL RIGHTS, RELATIVE TO DETENTION IN A HOUSE OF DETENTION, MAY NOT BE SACRIFICED ON THE GROUND THAT THE CITY HAS OTHER AND MORE PRESSING PRIORITIES, SINCE TO DO SO WOULD BE TO DISCRIMINATE GROSSLY AGAINST POOR PERSON WHO CANNOT AFFORD BAIL. *Them v. Malcolm*, C.A.N.Y. 1975, 527 F.2d 1041.

3. ALTHOUGH EIGHTH AMENDMENT HAS NO APPLICATION TO PRETRIAL DETAINES, THEY RETAIN CONSTITUTIONAL RIGHTS DERIVED FROM THE DUE PROCESS CLAUSE OF THE FOURTEENTH AMENDMENT. *Robinson v. Moses*, N.D. Ind. 1986, 644 F. SUPP. 97.

4. THIS CLAUSE FORBIDS PUNISHMENT OF PERSON HELD IN CUSTODY WAITING TRIAL. *Odom v. Tripp*, D.C. Mo. 1983, 575 F. SUPP. 491. *FILED IN OFFICE* AUG 15 2005

5. WHETHER IMPOSITION OF PUNISHMENT ON PRETRIAL DETAINES CONFINED IN COUNTY JAIL WAS VIOLATIVE OF THEIR RIGHTS UNDER AMEND (8) WAS QUESTIONABLE, BUT IT WAS CLEARLY VIOLATION OF THEIR RIGHTS UNDER THIS CLAUSE AND EQUAL PROTECTION CLAUSE OF THIS AMENDMENT TO SUBJECT THEM TO ANY FORM OF PUNISHMENT FOR CONFINEMENT BEYOND

5

THAT WHICH WAS REASONABLY NECESSARY TO INSURE THE PRESENCE AT TRIAL. VEST V. LUBBOCK COUNTY COM'RS CO. D.C. TEX. 1977, 444 F. SUPP. 824, PRETRIAL DETAINEE IS ENTITLED TO PROTECTION FROM CRUEL AND UNUSUAL PUNISHMENT AS MATTER OF DUE PROCESS. OWEN-EL V. ROBINSON D.C. Pa. 1978, 442 F. SUPP. 1368.

6. BEFORE PRETRIAL DETAINES MAY BE SUBJECTED TO LOSS OF PRIVILEGE FOR MORE THAN ONE DAY, ISOLATION, REDUCED DIET, OR LOSS OF ALL PRIVILEGE THERE MUST BE: (1) HEARING BEFORE IMPARTIAL OFFICER NOT INVOLVED IN THE TRANSACTION OR IN INVESTIGATION OF THE CHARGES, (2) REAS-
ONABLE ADVANCE ORAL OR WRITTEN DESCRIPTION OF THE CHARGES IN ADVANCE OF A HEARING, (3) GENERAL RIGHT TO CONFRONT PRESENT WITNESSES AT HEARING, (4) RIGHT TO CONFRONT AND QUESTION ACCUSERS AND (5) SHORT, WRITTEN STATEMENT OF CON-
CLUSIONS COMPOSED BY HEARING OFFICER AND GIVEN TO INMATES OF MILWAUKEE COUNTY JAIL V. PETERSON, D.C. WI.
1973, 353 F. SUPP. 1157.

FILED IN OFFICE
AUG 15 2005

7. L.S.A-CONST. ART. 1-12, PROVIDING THAT ALL PERSONS SHALL BE AVAILABLE BY SUFFICIENT SURETIES, EXCEPT PERSONS CHARGED WITH A CAPITAL OFFENSE, WHERE PROOF IS EVIDENT OR PRESUMPTION GREAT, ETC, DOES NOT DENY A DEFENDANT WHO IS CHARGED WITH A CAPITAL OFFENSE, IN CASE WHERE PROOF IS EVIDENT OR PRESUMPTION GREAT OF DUE PROCESS OF LAW, OR EQUAL PROTECTION OF THE LAW AND PRIVILEGES AND IMMUNITIES GUARANTEED BY THE CONSTITUTION AND LAW UNITED STATES. McCARDLE

8. THE DRUG PARAPHERNALIAS ALL FOUR WHERE SENT TO OPEN
LABAMA TO C. RANDALL CLARK, PH.D. MR. MARK ODOM IS
THE ONE WHO SENT THEM ON MAY 11, 2005. DEFENDANT
ENCLOSE A COPY OF THE REPORT OF THE ANALYSIS, IN
THE REPORT OF THE RESULTS, THE EVIDENCE OF THESE CASE
WAS TO BE CHARGE ALL MISDEMEANORS ONLY DRUG
PARAPHERNALIAS, BECAUSE THERE ARE NOT ANY DETECTIBLE AMOUNT
OF CONTROLLED SUBSTANCE TO SUPPORT A CONVICTION

WHEREFORE THE DEFENDANT REQUESTS UPON THIS MOTION
THAT THE COURT PERMIT A RULE 16.4 PROTECTIVE ORDER
AND CONDITIONS OF DISCOVERY TO MAKE SUCH SHOWING
IN A PART OF THE INDICTMENT IN THE FORM OF A WRITTEN
STATEMENT TO BE INSPECTED BY THE JUDGE ALONE ALSO
PERMIT A RULE 16.3 CONTINUING DUTY TO DISCLOSE
ALL CONTROLLED SUBSTANCE CHARGES, AND REMAND
THE PARAPHERNALIAS TO THE DISTRICT COURT OR CHANGE
PLACE OF TRIAL DO TO PREJUDICE FOR DELAY
DEFENDANT PRAYS THAT THIS HONORABLE COURT TAKE
ACTION IN THIS MATTER AND PLEADING AND GRANT HIS
MOTION AND A HEARING BE HELD AS A MATTER OF LAW
AND AN ORDER ANSWER NAMED AS THE PLAINTIFF BE
GIVEN AT THE EARLIEST POSSIBLE TIME
RESPECTFULLY SUBMITTED THIS THE 11 ~~JAY~~ ^{FILED IN OFFICE} ~~15~~ ^{AUG 15 2005} AUG
005

DECLARE UNDER PENALTY OF PERJURY THAT THE ABOVE
LEADING IS TRUE AND CORRECT. 8-11-05 SARAH EARL FORRESTER